



REGISTRAR'S CHAMBERS  
SUPREME COURT  
123 FRONT STREET  
HAMILTON HM 12, BERMUDA

16 April 2007

TO: Wakefield Quin  
Barristers & Attorneys  
Attn: Mr. Pachai

Dear Sir

**CIVIL JURISDICTION 2006 No. 33**

**MUTUAL HOLDINGS (BERMUDA) LIMITED** **Plaintiff**

**and**

**SINCLAIR-DWYER & COMPANY, INC** **Defendant**

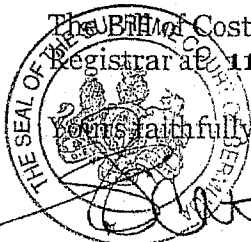
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I attached hereto a copy of a Bill of Costs filed in the Registry on the **5 April 2007** in respect of the above-mentioned cause amounting to **BD \$42,401.25 (excluding the taxation fee)**.

You are now required (within seven days of receipt of this letter) to notify the Registry as well as the Plaintiff if you dispute the sum claimed and your desire to be present at the taxation of this Bill of Costs. In the event notification is not received from you (in writing) **within 7 days**, and should the plaintiff appear on the given date, the bill will be taxed in a greater amount, for which you become liable.

The **Bill of Costs** will be taxed in your presence or in your absence before the Registrar at **11:00 am** on the **30<sup>th</sup>** day of **May 2007**.

Yours faithfully,



**REGISTRAR**  
CAS/jb

cc: Conyers Dill & Pearman - Mr. Adamson

IN THE SUPREME COURT OF BERMUDA  
CIVIL JURISDICTION

2006: No. 33

(COMMERCIAL DIVISION)

BETWEEN

MUTUAL HOLDINGS (BERMUDA) LIMITED

Plaintiff

and

SINCLAIR-DWYER & COMPANY, INC

Defendant

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**PLAINTIFF'S BILL OF COSTS**

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On 1 February 2006 the Plaintiff issued proceedings against the Defendant seeking payment of monies due under indemnities contained in shareholder agreements related to rent-a-captive reinsurance programmes made between the Plaintiff, affiliated companies, and the Defendant.

The Defendant is in California and leave was obtained to serve the writ outside Bermuda. The Defendant subsequently entered an appearance in the action and filed a defence denying liability for payment under the indemnity and asserting a positive defence of misrepresentation.

The Summons for Directions was heard on 12 October 2006 and the action was transferred to the Commercial Court. Discovery of documents by the Plaintiff took place in November 2006 and witness statements were exchanged in accordance with the Order for Directions in January 2007.

The Plaintiff obtained orders for striking out substantial parts of the defence on 11 January 2007 and 1 March 2007, for failure by the Defendant to provide further and better particulars of the defence as ordered in the Directions Order of 12 October 2006.

The Defendant's attorneys, Messrs. Wakefield Quinn, came off the record on 15 March 2007, some two weeks before the trial. The Defendant has provided no address for service within the jurisdiction, but its address in California is 15890 Foothill Road, San Leandro, CA 94578, USA.

The trial was listed for hearing before the Hon. Mr. Justice Bell on 2 April 2007 for three days. In fact, because the Defendant was unrepresented and did not attend the trial, the trial lasted only about an hour and a half on 2 April 2007.

At the conclusion of the trial on 2 April 2007, Bell J. gave judgment for the Plaintiff and ordered the Defendant to pay the Plaintiff US\$2,575,105 (comprising US\$2,004,764 principal + US\$570,341 Contractual Interest). Bell J. also ordered the Defendant to pay the Plaintiff its cost of the action to be taxed if not agreed on the standard basis.

The action was a claim on an indemnity in a complicated reinsurance rent-a-captive arrangement. It was necessary to understand and explain the entire insurance programme, not simply the indemnity.

Conyers Dill & Pearman were the attorneys of record for the Plaintiff in the litigation. Three attorneys

dealt with the matter. Mr. Paul Smith, Counsel, had the main conduct of the litigation and appeared at trial. He is a commercial litigator with 21 years experience in England and 6 years experience in Bermuda. His current hourly charge out rate is \$600 per hour (\$575 prior to 1 April 2007). Ms. Dana Casling and Mr. Ben Adamson assisted him. Dana Casling is a commercial litigator with 2 years experience in England and 3 years experience in Bermuda. Her charge out rate was \$300 per hour. Mr. Ben Adamson is a commercial litigator with 5 years experience in England and 3 years in Bermuda. His hourly charge out rate is \$420 per hour.

Conyers Dill & Pearman have provided the Plaintiff with a 10% discount from their normal charges in this litigation and this has been deducted at the end of the profit costs statement.

**A. CONYERS DILL & PEARMAN PROFIT COSTS:**

DATE	HOURS	DESCRIPTION	ITEM	AMOUNT
1/25/2006	0.25	Email from Patrick Reardon; admin	4	137.50
1/26/2006	1.75	Discuss with PAS; review docs and draft pleadings; amend docs.	4	525.00
1/27/2006	0.75	Revising draft statement of claim and affidavit	4	412.50
1/27/2006	0.75	Review docs.; email correspondence with P. Smith and client.	4	225.00
1/31/2006	0.5	Reviewing revised draft pleadings; emailing Patrick Reardon	4	275.00
1/31/2006	1.25	Prepare docs. and affidavit for filing; email client.	4	375.00
2/1/2006	0.75	Finalise court documents; attend swearing of David Alexander affidavit	4	412.50
2/1/2006	0.25	Letter to Registry	4	137.50
2/3/2006	0.25	Checking documents from court	4	137.50
2/8/2006	0.5	Preparing Draft Order	4	150.00
2/9/2006	2.5	Prepare for hearing; review case report; attend court; amend order and filing with court; prepare writ; email correspondence.	4	750.00
2/10/2006	1.5	Attend court registry; draft email, letter and instructions re. service of docs; draft affidavit of service.	1,4	450.00
2/13/2006	0.25	Email correspondence with M. Ballards re. service of docs.	4	75.00
3/22/2006	0.5	various emails	4	275.00
3/22/2006	0.5	Attend general email correspondence with client; attend correspondence with WQ re. extension of time/ request for docs.	4	150.00
3/24/2006	0.25	Attend doc request from WQ.	4	75.00
4/6/2006	0.25	Attend email correspondence with J. Pachai re. service of defence.	4	87.50
4/11/2006	0.75	Review defence; email correspondence with client.	4	262.50
4/19/2006	0.5	Reviewing Defence; discussing with Daina Casling	4	287.50
<b>TOTAL</b>	<b>14</b>			<b>5,200.00</b>

4/24/2006	1	Revising draft Request for Further & Better Particulars; revising draft Reply	4	575.00
4/24/2006	0.5	Revising draft Reply	4	287.50
4/24/2006	2	Attend review of defence and draft reply; draft of Further and better Particulars re. misrep claim.	4	700.00
4/28/2006	1	Email client; incorporate amendments and prepare Reoky and RFFABP for filing.	4	350.00
5/2/2006	0.25	Discussing with Daina Casling	4	143.75
5/2/2006	0.25	Email from Patrick Reardon	4	143.75
5/2/2006	1.25	Email client re. reply and Request for better particulars; file docs with court registry.	4	437.50
5/3/2006	0.5	File reply and RFFABP's.	4	175.00
5/26/2006	0.25	Emails from Patrick Reardon	4	143.75
5/26/2006	0.25	Email correspondence with client re. extension for response to RFFABP's.	4	87.50
6/7/2006	0.25	E/c with PS re. reply to FABP's and J. Pachai.	4	87.50
6/14/2006	0.25	E/c with J. Pachai and P. Smith.	4	87.50
6/15/2006	0.25	Emails with Wakefield Quin	4	143.75
6/15/2006	0.5	Email from Patrick Reardon; response to Jai Pachai	4	287.50
6/15/2006	0.25	E/c with PAS and client.	4	87.50
6/21/2006	0.25	E/c re. reply to request for FABP.	4	87.50
9/20/2006	1.5	Review file.	4	630.00
9/25/2006	1	Reviewing file	4	420.00
10/3/2006	0.25	Email client.	4	105.00
10/4/2006	0.25	Discussing with Ben Adamson	4	143.75
10/4/2006	0.25	Email client.	4	105.00
10/6/2006	0.25	Emails with Ben Adamson	4	143.75
10/11/2006	0.5	Research	4	287.50
10/12/2006	1	Attend Court; file note.	4	420.00
10/13/2006	0.5	Draft Order and file.	4	210.00
10/16/2006	2	Attend David Alexander.	4	840.00
10/17/2006	0.25	Attend PAS.	4	105.00
10/18/2006	0.25	Reviewing documents received from Mutual	4	143.75
10/25/2006	0.5	Reviewing position and organising discovery and List of Documents	4	287.50
10/25/2006	0.25	Discovery.	4	105.00
11/2/2006	0.5	Reviewing package of information; supporting information; discussing with Ben Adamson	4	287.50
11/6/2006	1.25	Letter to WQ draft.	4	525.00
11/7/2006	0.5	Amend letter.	4	210.00
11/7/2006	0.25	Amend letter.	4	105.00
11/7/2006	0.25	Email other side re. directions.	4	105.00
11/8/2006	0.25	Reviewing draft letter to Wakefield Quin	4	143.75
11/8/2006	0.5	Letter to Wakefield Quin.	4	210.00
11/27/2006	0.25	Reviewing position regarding striking-out of fraud allegations	4	143.75
<b>TOTAL</b>	<b>21.5</b>			<b>9,501.25</b>

12/1/2006	1.75	Discussing with Ben Adamson; drafting summons and affidavit to strike-out parts of the Defence; letter to Registry; swearing affidavit	4	1,006.25
12/1/2006	0.25	Reviewing file	4	143.75
12/1/2006	0.5	Attend PAS. Email client re. statements.	4	210.00
12/6/2006	0.25	Attend Legion's counsel re. Mila Quest.	4	105.00
12/15/2006	0.5	Review draft witness statement of David Alexander.	4	287.50
12/15/2006	2.5	Draft Statement for David Alexander.	4	1,050.00
12/18/2006	0.25	Review MRM corporate clients.	4	143.75
12/18/2006	0.25	Review scheme for PAS.	4	143.75
12/18/2006	1.25	Research for PAS.	4	718.75
12/18/2006	1.75	Review draft w/s of David Alexander.	4	1,006.25
12/18/2006	1	Revise draft w/s of David Alexander.	4	575.00
12/18/2006	1	Further revisions to draft w/s of David Alexander; emails from David Alexander.	4	575.00
12/18/2006	0.25	Review organisational structure charts.	4	143.75
12/19/2006	0.25	Letter from Wakefield Quinn.	4	143.75
12/19/2006	0.25	Telephone call with David Alexander.	4	143.75
12/20/2006	0.25	Discuss BA.	4	143.75
12/20/2006	0.5	Meeting with David Alexander.	4	287.50
12/20/2006	0.25	Email from David Alexander.	4	143.75
12/20/2006	0.75	Attend client in conference	4	315.00
12/20/2006	0.5	Consider file, e-mail client	4	210.00
12/21/2006	3.75	Amend statement for David Alexander	4	1,575.00
12/27/2006	0.75	Review affidavit	4	315.00
1/2/2007	1.5	Legal research on indemnity issue	4	630.00
1/2/2007	0.5	Research on indemnity	4	210.00
1/2/2007	0.25	Review draft W/S of David Alexander.	4	143.75
1/2/2007	0.25	Discuss BA.	4	143.75
1/3/2007	0.25	Attend PAS re. indemnity issue.	4	105.00
1/4/2007	0.25	Email from/to Ben Adamson.	4	143.75
1/4/2007	1	Alexander statement.	4	420.00
1/4/2007	1.5	Amend Alexander statement.	4	630.00
1/9/2007	0.5	Discussion with BA; review draft w/s of David Alexander.	4	287.50
1/9/2007	0.5	Finalise statement.	4	210.00
1/10/2007	0.5	Review David Alexander final draft w/s; discuss with BA.	4	287.50
1/10/2007	0.25	Discussion with BA.	4	143.75
1/10/2007	0.75	Preparation for Summons.	4	315.00
1/11/2007	1.5	Preparation for Summons; travel to Court; attend Court/waiting; attend Court.	1	630.00
1/11/2007	0.5	Draft Order; travel.	4	210.00
1/12/2007	0.25	Finalise statement.	4	105.00
1/15/2007	0.25	Read witness statement of Michael Dwyer.	4	143.75
1/19/2007	0.25	Attend J Pachai re. Order.	4	105.00
1/25/2007	0.25	Letter to other side re. order.	4	105.00
1/30/2007	0.25	Admin re: trial dates.	4	143.75
2/1/2007	0.25	Preparation for setting down action for trial.	4	143.75
<b>TOTAL</b>	<b>30.25</b>			<b>14,642.50</b>

2/6/2007	0.25	File Notice of Entry.	4	105.00
2/15/2007	0.75	Letters to Court; Summons to strike out.	4	315.00
2/22/2007	0.25	Attend PAS re. tactics.	4	105.00
2/23/2007	0.25	Preparation for Summons; attend JPE.	4	105.00
2/28/2007	0.75	Prep for hearing; draft Order	4	431.25
3/1/2007	1	Attend Chambers; Ltr to Registrar	1	575.00
3/5/2007	0.25	Serve Order; email client.	4	105.00
3/6/2007	0.25	Discuss Ben Adamson.	4	143.75
3/7/2007	1	Review pleadings and consider what is required for trial.	4	575.00
3/7/2007	0.25	Attend PAS.	4	105.00
3/9/2007	0.25	Telephone call with Registry; organise Praecipe.	4	143.75
3/9/2007	0.25	Discuss Hearsay Notices with BMA.	4	143.75
3/9/2007	0.5	Review WQ application to come off record; email David Alexander.	4	287.50
3/9/2007	0.25	Attend PAS.	4	287.50
3/13/2007	0.25	Telephone call with David Alexander.	4	105.00
3/16/2007	0.5	Review position re: trial; Notice of not Acting from WQ.	4	143.75
3/19/2007	0.5	Review witness statement.	4	287.50
3/19/2007	0.5	Review docs.	4	287.50
3/21/2007	0.5	Review position.	4	287.50
3/23/2007	0.5	Discuss Trial Bundles with BA; letter to Registry.	4	287.50
3/23/2007	0.5	Organise bundle of documents.	4	287.50
3/23/2007	0.5	Trial bundle.	4	210.00
3/26/2007	1.5	Work on trial bundles.	4	862.50
3/26/2007	0.75	Drafting skeleton argument; filing trial bundle at court.	4	431.25
3/26/2007	1.5	Drafting skeleton argument.	4	862.50
3/26/2007	0.25	Amend draft skeleton.	4	143.75
3/26/2007	0.5	Revise draft skeleton.	4	287.50
3/27/2007	0.75	Drafting skeleton argument.	4	431.25
3/27/2007	0.25	Drafting skeleton argument.	4	143.75
3/27/2007	0.75	Revising skeleton.	4	431.25
3/27/2007	0.25	Revising skeleton.	4	143.75
3/27/2007	0.5	Reading papers.	4	287.50
3/27/2007	0.5	Attend PAS; review skeleton.	4	210.00
3/28/2007	0.5	Review commutation agreement.	4	287.50
3/29/2007	2	Prep for court.	4	1,150.00
3/30/2007	1	Preparation for trial; discuss BA	4	575.00
3/30/2007	3	Preparation for trial	4	1,725.00
4/1/2007	1.75	Prep for trial.	4	1,085.00
4/2/2007	4.5	Prep and attend trial; drafting judgment.	3,4	2,790.00
4/3/2007	0.25	Email from David Alexander and review SD credit report.		155.00
4/3/2007	0.25	Organise Bill of Costs preparation.		155.00
<b>TOTAL</b>	<b>30.75</b>			<b>17,768.75</b>

SUMMARY

TOTAL HOURS	96.5
TOTAL AMOUNT	\$47,112.50
LESS 10% DISCOUNT	\$42,401.25

B. CONYERS DILL & PEARMAN: DISBURSEMENTS

(Schedule A) \$1,563.10



SUMMARY

	CHARGES		TAXED OFF	
	Disbursements	Profit Costs	Disbursements	Profit Costs
Page 2		5,200.00		
Page 3		9,501.25		
Page 4		14,642.50		
Page 5		17,768.75		
Page 6		-		
Page 7	1,563.10			
Totals	1,563.10	47,112.50		
Less 10% discount on profit costs		42,401.25		

Total Fees and Disbursements

Less Taxed Off

Balance

Add Taxing Fee

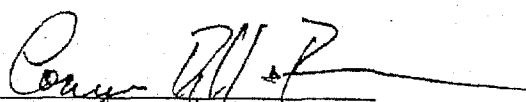
TOTAL

\$ 25  
\$42,426.25

We certify that the castings of this Bill are correct.

We certify that the costs claimed herein do not exceed the costs which the Plaintiff is required to pay to Conyers Dill &amp; Pearman.

DATED this 5<sup>th</sup> day of April 2007

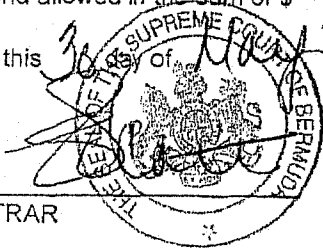
  
Conyers Dill & Pearman

Taxed and allowed in the sum of \$

42,426.25

DATED this 30<sup>th</sup> day of May 2007

REGISTRAR



SCHEDULE A

## Disbursement Summary

Matter Number 331349

Matter Description RE: SINCLAIR-DWYER LITIGATION

Client Number 14767

Client Name Mutual Indemnity (Bermuda) Ltd.

01 ▾ 12 ▾ 2006 ▾ New Period		1206	01/06-12/06		LTD	
Description	Amount	Billed Amount	Amount	Billed Amount	Amount	Billed Amount
Photocopying	5.70	5.70	54.40	54.40	595.05	595.05
Courier - IBC Contract	4.75	4.75	47.50	47.50	118.25	118.25
Courier - IBC sprint			94.50	94.50	114.00	114.00
Printing	11.55	11.55	29.25	29.25	34.05	34.05
Revenue Stamps	65.00	65.00	365.00	365.00	700.00	700.00
Telephone	1.75	1.75	1.75	1.75	1.75	1.75
Total	88.25	88.25	592.40	592.40	1,563.10	1,563.10

IN THE SUPREME COURT OF BERMUDA  
CIVIL JURISDICTION  
2006: No. 33  
(COMMERCIAL DIVISION)

BETWEEN

MUTUAL HOLDINGS (BERMUDA) LIMITED

Plaintiff

and

SINCLAIR-DWYER & COMPANY, INC

Defendant

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PLAINTIFF'S BILL OF COSTS

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CONYERS DILL & PEARMAN  
Barristers & Attorneys  
Clarendon House  
2 Church Street  
Hamilton, Bermuda  
Attorneys for the Plaintiff

Ref: PAS/trb/331349/Litdocs/53935

SCOTTIE COURT JUDGE  
2007 MAR 20 PM 3:00